

Application Serial No. 10/650,134

REMARKS

I. Status of Claims

After canceling claim 6, claims 1-5 (1 independent claim, 5 total claims) remain pending in this application. Applicants respectfully request reconsideration and allowance of the pending claims in view of the following remarks.

II. Claims Rejected Under 35 U.S.C. §102(b)

The Examiner has rejected claims 1-5 under 35 U.S.C. §102(b) as being anticipated by Manne, U.S. Patent No. 6,169,595 B1 ("Manne '595"). Applicants respectfully traverse the rejection.

With respect to claim 1, the Examiner contends that Manne '595 discloses a vapor dispensing device comprising:

[A] first volatizable material (liquid or gel fragrance in fragrance holder (48)); a second volatizable material (a second liquid or gel fragrance in a second fragrance holder (48)) separately contained from said first volatizable material; and a common delivery system (microprocessor (34), compressed air inlet hub (26), compressor (30), valves (22,28), outlet tubing (14), and scent inlet (18)) communicating with said first and second volatizable materials, said delivery system configured to facilitate evaporation of said first volatizable material and said second volatizable material into an environment. Specifically, the evaporated scent from the fragrance holders (48) is directed through the delivery system to the nasal passages of a user wearing the nasal tubing (20) in order to provide the user with a scent or mixture of scents that correspond to a movie or video (see figure 1; col. 5, line 4 to col. 6, line 43).

As an initial matter, Applicants respectfully submit that Manne '595 relates to a complex device for delivering scents in rapid succession in precise synchronization with video graphic images. For example, Manne '595 discloses the use of several complex algorithms, a microprocessor and compressed gas for controlling scent that is precisely timed with displayed images. (See Cols. 7-24). In contrast, Applicants' invention relates generally to traditional,

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consumer-friendly air freshening devices. As such, a person of ordinary skill in the art would not be reasonably expected or motivated to look to Manne '595 in conjunction with the present invention.

Moreover, irrespective of the complexity of Manne '595, Applicants submit that the cited references, either alone or in combination, fail to disclose each and every element of the claims as recited.

For example, amended claim 1 recites a "transfer mechanism comprising a first wick structure in liquid communication with said first volatizable material and a second wick structure in liquid communication with said second volatizable material...."

In contrast, Manne '595 discloses "a transfer mechanism (air compressor (30) delivering compressed air to the fragrance containers (48))." (See Col. 5, lines 5-45). Furthermore, as the Examiner recognized in the above-referenced Office Action with respect to claim 6 (now cancelled), "[Manne '595] fails to specifically teach a transfer mechanism that comprises a first wick structure communicating with said first volatizable material and said evaporation region, and a second wick structure communicating with said second volatizable material and said evaporation region." (See Office Action, page 5). As such, claim 1 as amended is not anticipated by Manne '595.

Furthermore, it would not, as the Examiner contends on page 5 of the office action, have been obvious in view of Manne U.S. Patent No. 6842,218 (Manne '218) to modify the invention of Manne ('595) to include a wick inside the fragrance holder.

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Manne '218 discloses a "wick positioned in reservoir and extending from the reservoir into the conduit." However, modification of Manne '595 to include a wick would render Manne '595 unsatisfactory for its intended purpose. Manne '595 states:

The second object and advantage of this system is its ability to rapidly change from one scent to another with a minimum amount of airflow....This invention is unique in that the scents provided to the viewer can change as rapidly as the video scenes displayed to a viewer. (Col. 2, ln 61 to Col. 3, ln 3).

In general, a wick is a loosely woven material that draws liquid upward against gravity using capillary action. Wicking by capillary action is generally slow and would cause a delay in the ability of the invention disclosed by Manne '595 to rapidly change scents. As such, Manne '595 teaches away from using a wick as a transfer mechanism.

Moreover, amended claim 1 further also an "evaporation region comprising a pad in liquid communication with said first wick structure and said second wick structure. The Examiner contends that Manne '595 discloses "an evaporation region (open area inside of the fragrance containers (48). (See Col. 5, lines 5-45). However, neither Manne '595 nor any other references cited by the Examiner alone or in combination disclose or suggest an evaporation region comprising a pad as recited in claim 1.

Consequently, none of the references cited by the Examiner alone or in combination teach each and every element of amended claim 1. Applicants therefore respectfully request the withdrawal of all rejections of claim 1.

Claims 2-5 depend on claim 1 and contain all of the elements thereof. Therefore, Applicants respectfully assert that claims 2-5 are patentable as being dependent from an allowable base claim. As such, Applicants respectfully request withdrawal of the rejection of claims 2-5.

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CONCLUSION

In view of the above remarks, Applicants respectfully submit that pending claims 1-5 properly set forth that which they regard as their invention and are allowable over the cited references.

Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at (602) 382-6337 at the Examiner's convenience, if that would help further prosecution of the subject Application. Applicants authorize and respectfully request that any fees due be charged to Deposit Account No. 19-2814.

This statement does NOT authorize charge of the issue fee.

Respectfully submitted,

Dated:

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